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JAN 07 2008

OFFICE OF PETITIONS

In re Application of:
Ashton-Rickardt et al. :
Application No. 09/993,363 :
Filed: November 14, 2001 : LETTER REGARDING
Attorney Docket No. ARCD:382US : PATENT TERM ADJUSTMENT
Attorney Docket No. 061300-0232 : and
Title: INDUCTION OF IMMUNITY : NOTICE OF INTENT TO ISSUE
USING INHIBITORS OF GRANZYMES : CERTIFICATE OF CORRECTION
AND METHOD FOR A FIRE FIGHTING :
VEHICLE :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B) filed August 16, 2007. Applicants request an adjustment of the initial patent term adjustment from 909 days to 842 days, a reduction of 67 days¹.

The request for reconsideration of the patent term adjustment is **GRANTED**, to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **eight hundred and forty-one (841)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

¹ Petitioner has not set forth what calculations were used to arrive at the conclusion that a reduction of 67 days was warranted. Petitioner's arguments are consistent with the Office's conclusion that a reduction of 109 days is warranted.

On August 27, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 909 days. The present application for patent term adjustment was timely filed² on or before payment of the issue fee. Applicants disclose that there should be an additional Applicant delay of 108 days due to the filing of a defective Appeal Brief on April 27, 2004. The Appeal Brief correcting the omission was filed on August 13, 2004. A review of the record confirms that a defective Appeal Brief was filed on April 26, 2004 (see notice of non-compliance, mailed July 9, 2004). A compliant Appeal Brief was filed on August 13, 2004. Pursuant to 37 C.F.R. § 1.704(c)(7), this constitutes a delay of 109 days, not 108 days.

Pursuant to 37 C.F.R. § 1.702(a)(2), the Office is required to respond to an appeal taken under 35 U.S.C. § 134 not later than four months after the date on which the appeal was taken. A notice of appeal was filed on January 22, 2004, and a decision by the Board of Patent Appeals and Interferences was not mailed until September 20, 2006, which is four months and 973 days after the receipt of the response. See 37 C.F.R. § 1.703(a)(2).

Consequently, there were 973 days of PTO delay.

Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply after a reply has been filed is a failure to engage in reasonable efforts to conclude prosecution. A response to a restriction requirement was filed on December 24, 2002, and a supplemental response was filed on January 14, 2003. This constitutes a delay of 21 days.

Pursuant to 37 CFR § 1.704(b), the failure to respond to an Office action within three months of the mail date of the Office action is a failure to engage in reasonable efforts to conclude prosecution. A final rejection was mailed on September 10, 2003, and a Notice of Appeal was not filed until January 22, 2004. This constitutes a delay of 43 days. With the present petition, Petitioner has indicated that a letter restarting the period of time for response was mailed on October 20, 2003, and as such, the period of delay was 2 days. The Office agrees with Petitioner's assessment.

² PALM records indicate that the issue fee was paid on September 13, 2007.

Thus, the proper period of reduction is 132 (21 + 2 + 109 + 132) days.

In view thereof, the revised patent term adjustment is 841 days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office. The petition fee has not been charged to Petitioner's Deposit Account.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Paul Shanowski, Senior Attorney, at (571) 272-3225.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a stylized, flowing script.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl. Copy of the Revised Patent Term Adjustment

PTA Calculations for Application: 09/993363

Application Filing Date:	11/14/2001	PTO Delay (PTO):	973
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	64
Post-Issue Petitions:	0	Total PTA (days):	841
PTO Delay Adjustment:	-68		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	01/04/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		109	
79	01/04/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
78	01/04/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	43		
66	07/16/2007	MAIL NOTICE OF ALLOWANCE			
65	07/12/2007	ISSUE REVISION COMPLETED			
64	07/12/2007	DOCUMENT VERIFICATION			
63	07/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	07/03/2007	NOTICE OF ALLOWABILITY			
61	04/28/2007	DATE FORWARDED TO EXAMINER			
60	04/24/2007	RESPONSE AFTER NON-FINAL ACTION			
59	01/30/2007	MAIL NON-FINAL REJECTION			
58	01/26/2007	NON-FINAL REJECTION			
57	01/26/2007	CASE DOCKETED TO EXAMINER IN GAU			
56	11/15/2006	AMENDMENT/ARGUMENT AFTER BPAI DECISION			
55	09/20/2006	MAIL BPAI DECISION ON APPEAL - REVERSED	973		33
54	09/20/2006	BPAI DECISION - EXAMINER REVERSED			
53	09/20/2006	BPAI DECISION 41.50(B)			
52	11/17/2005	WAIVER OF HEARING BY APPELLANT			
51	10/27/2005	NOTIFICATION OF APPEAL HEARING			
50	09/02/2005	DOCKETING NOTICE MAILED TO APPELLANT			
49	09/02/2005	ASSIGNMENT OF APPEAL NUMBER			
48	06/17/2005	APPEAL AWAITING BPAI DOCKETING			
47	03/21/2005	MAIL REPLY BRIEF NOTED BY EXAMINER			
46	03/18/2005	REPLY BRIEF NOTED BY EXAMINER			
45	01/25/2005	CASE DOCKETED TO EXAMINER IN GAU			

44	01/13/2005	DATE FORWARDED TO EXAMINER			
43	01/06/2005	REPLY BRIEF FILED			
42	01/06/2005	REQUEST FOR ORAL HEARING			
41	11/02/2004	MAIL EXAMINER'S ANSWER			
40	11/01/2004	EXAMINER'S ANSWER TO APPEAL BRIEF			
39	08/30/2004	DATE FORWARDED TO EXAMINER			
38	08/13/2004	APPEAL BRIEF FILED			
37	07/09/2004	NOTICE -- DEFECTIVE APPEAL BRIEF			
36	04/29/2004	DATE FORWARDED TO EXAMINER			
35.1	04/26/2004	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
35	04/26/2004	APPEAL BRIEF FILED			
34	04/26/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	01/22/2004	NOTICE OF APPEAL FILED		43	30
32	10/20/2003	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
31	10/17/2003	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
30	09/10/2003	MAIL FINAL REJECTION (PTOL - 326)			
29	09/08/2003	FINAL REJECTION			
28.7	06/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	26
28	06/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	07/07/2003	DATE FORWARDED TO EXAMINER			
26	06/19/2003	RESPONSE AFTER NON-FINAL ACTION			
25	03/19/2003	MAIL NON-FINAL REJECTION			
24	03/19/2003	NON-FINAL REJECTION			
23	01/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
22	01/14/2003	DATE FORWARDED TO EXAMINER			
21	01/14/2003	SUPPLEMENTAL RESPONSE		21	19
20	01/07/2003	DATE FORWARDED TO EXAMINER			
19	12/24/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
18	11/12/2002	MAIL RESTRICTION REQUIREMENT			
17	11/08/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
16	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
15.7	03/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
15	03/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/30/2002	CASE DOCKETED TO EXAMINER IN GAU			
13	04/25/2002	APPLICATION DISPATCHED FROM OIPE			
12	04/09/2002	APPLICATION IS NOW COMPLETE			
10	03/18/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	03/18/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	03/18/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	12/12/2001	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
6	01/23/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	01/18/2002	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
3	12/12/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	11/29/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/14/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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